

## Maine Revised Statutes

### Title 38: WATERS AND NAVIGATION

#### Chapter 5: GENERAL PROVISIONS RELATING TO RIVERS AND STREAMS

##### §635. DEPARTMENT DECISION

Upon receipt of a properly completed application, the department shall: [1989, c. 890, Pt. A, §40 (AFF); 1989, c. 890, Pt. B, §184 (AMD).]

**1. Approval.** Approve the proposed project upon such terms and conditions as are appropriate and reasonable to protect and preserve the environment and the public's health, safety and general welfare, including the public interest in replacing oil with hydroelectric energy. These terms and conditions may include, but are not limited to:

A. Establishment of a water level range for the body of water impounded by a hydropower project; [1983, c. 458, §18 (NEW).]

B. Establishment of instantaneous minimum flows for the body of water affected by a hydropower project; and [1983, c. 458, §18 (NEW).]

C. Provision for the construction and maintenance of fish passage facilities. [1989, c. 890, Pt. A, §40 (AFF); 1989, c. 890, Pt. B, §184 (AMD).]

When the proposed project involves maintenance, reconstruction or structural alteration at an existing hydropower project and when the proposed project will not alter historic water levels or flows after its completion, the department may impose temporary terms and conditions of approval relating to paragraph A or paragraph B but may not impose permanent terms and conditions that alter historic water levels or flows;

[ 1989, c. 890, Pt. A, §40 (AFF); 1989, c. 890, Pt. B, §184 (AMD) .]

**2. Disapproval.** Disapprove the proposed project setting forth in writing the reasons for the disapproval; or

[ 1983, c. 458, §18 (NEW) .]

**3. Hearing.** Schedule a hearing on the proposed project. Any hearing held under this subsection must follow the notice requirements and procedures for an adjudicatory hearing under Title 5, chapter 375, subchapter IV. After a hearing is held under this subsection, the department shall make findings of facts and issue an order approving or disapproving the proposed project, as provided in subsections 1 and 2.

[ 1989, c. 890, Pt. A, §40 (AFF); 1989, c. 890, Pt. B, §184 (AMD) .]

##### SECTION HISTORY

1983, c. 458, §18 (NEW). 1983, c. 779, §§2,3 (AMD). 1989, c. 890, §§A40,B184 (AMD).

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